

ESTTA Tracking number: **ESTTA640320**

Filing date: **11/20/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91209825
Party	Plaintiff Kiss My Face, LLC
Correspondence Address	Carrie A. Johnson Fraser Clemens Martin & Miller LLC 28366 Kensington Lane Perrysburg, OH 43551 UNITED STATES firm@fraser-ip.com, johnson@fraser-ip.com, boes@fraser-ip.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Carrie A. Johnson
Filer's e-mail	firm@fraser-ip.com, johnson@fraser-ip.com
Signature	/caj/
Date	11/20/2014
Attachments	Exhbit 9 Part 2.pdf(4449191 bytes) Exhibit 10 - PUBLIC Opposers Notice of Reliance (Redacted Version).pdf(513309 bytes)

EXHIBIT 9, PART 2

Opposer's Notice of Reliance

redacted redacted redacted redacted redacted redacted redacted
Jacquelyn Doblinger

redacted redacted redacted redacted redacted redacted redacted
From:

Sent:

To:

Cc:

Subject:

Thank you!

Best,
Carrie

Carrie Johnson
Direct (419) 365-2067

From: Morning Bird Botanicals [REDACTED] REDACTED
Sent: Friday, June 21, 2013 9:57 AM
To: Carrie Johnson
Subject: Re: Kiss My Face- Infringement Kiss My Lips

Hi Carrie,

I did request an express abandonment yesterday, so we should be all set.

Best,

Michelle Angelides
Morning Bird Botanicals LLC

Sent from my iPhone

On Jun 21, 2013, at 6:33 AM, Carrie Johnson <johnson@fraser-ip.com> wrote:

Dear Ms. Angelides,

Thank you for your voicemail and your email. Please note, my email address is Johnson@fraser-ip.com (no "C." on the front). The other address that you used (firm@fraser-ip.com) is correct, it is an inbox monitored by one of our assistants.

We truly appreciate your prompt response. We will advise Kiss My Face that you are no longer planning to use the mark KISS MY LIPSI. Are you also planning to file an Express Abandonment of U.S. Application Serial No. 85/924,877? If so, the U.S. Patent and Trademark Office's electronic form for a Request for Express Abandonment (Withdrawal) at: <http://teas.uspto.gov/rea/> If you expressly abandon the application, we will close our file for this matter.

We will open a file in regard to the other use of KISS MY LIPSI that you called to our attention.

Kiss My Face regrets that this situation has caused you inconvenience. We hope that you can appreciate that the law imposes a duty on Kiss My Face as a trademark owner to be diligent in enforcing its brand.

Best Regards,
Carrie A. Johnson
FRASER CLEMENS MARTIN & MILLER LLC

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28366 Kensington Lane
Perrysburg, Ohio 43551
Phone (419) 874-1100
Direct (419) 365-2067
Fax (419) 874-1130
johnson@fraser-lp.com

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From: Michelle Angelides [REDACTED]
Sent: Thursday, June 20, 2013 7:01 PM
To: C.johnson@fraser-lp.com
Subject: Kiss My Lips

Hello Carrie,

I received your certified letter today regarding my trademark application for Kiss My Lips!, and have already chosen to work on another name of my product. Interestingly, however, it was not because of Kiss my Face products, but because another company is already using the name. Even though it doesn't appear to be trademarked, they've been using it in commerce, and I was just proposing to use it, so they predate me.

<http://scentedco.com/kiss-my-lips>

Just FYI..at the risk of ruining someone else's party.

All the best,

Michelle Angelides
Morning Bird Botanicals LLC

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KISS MY LIPS!

Word Mark	KISS MY LIPS!
Goods and Services	(ABANDONED) IC 003. US 001 004 006 050 051 052. G & S: Lip balm; cosmetics. FIRST USE: 20130409. FIRST USE IN COMMERCE: 20130409
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85924877
Filing Date	May 7, 2013
Current Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) Angelides, Michelle INDIVIDUAL UNITED STATES 1853 Stablegate Ave Henderson NEVADA 89012
Attorney of Record	Raj Abhyanker
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment Date	June 21, 2013

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Request for Express Abandonment

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85924877
PUBLISH FOR OPPOSITION DATE	00/00/0000
MARK SECTION	
MARK	KISS MY LIPS!
REQUEST FOR EXPRESS ABANDONMENT SECTION	
STATEMENT	The applicant hereby expressly abandons the application for trademark registration made under the serial number identified above.
SIGNATURE SECTION	
SIGNATURE	/Mitesh Patel/
SIGNATORY NAME	Mitesh Patel
SIGNATORY DATE	06/21/2013
SIGNATORY POSITION	Attorney of record, CA bar member
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Fri Jun 21 05:01:41 EDT 2013
TEAS STAMP	USPTO/REA-27.251.65.162-2 0130621050141245261-85924 877-50064ce3b98036df2cec8 9ed8adb35ab5dcb417a179e4b d226326bbfc9a1bd99b-N/A-N /A-20130621045810720521

Request for Express Abandonment

To the Commissioner for Trademarks:

MARK: KISS MY LIPS!

SERIAL NUMBER: 85924877

By submission of this request, the applicant hereby expressly abandons the application for trademark registration made under the serial number identified above. Except as provided in 37 C.F.R Section 2.135. (concerning the commencement of an opposition, concurrent use, or interference proceeding), the fact that an application has been expressly abandoned shall not, in any proceeding in the United State Patent and Trademark Office, affect any right that the applicant may have in the mark which is the subject of the abandoned application.

Signature: /Mitesh Patel/ Date: 06/21/2013

Signatory's Name: Mitesh Patel

Signatory's Position: Attorney of record, CA bar member

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 85924877

Internet Transmission Date: Fri Jun 21 05:01:41 EDT 2013

TEAS Stamp: USPTO/REA-27.251.65.162-2013062105014124

5261-85924877-50064ce3b98036df2cec89ed8a

db35ab5dcb417a179e4bd226326bbfc9a1bd99b-

N/A-N/A-20130621045810720521

FRASER CLEMENS MARTIN MILLER

INTELLECTUAL PROPERTY AND TECHNOLOGY LAW

Donald R. Fraser (1927-2010)

William J. Clemens ¹
Richard G. Martin
J. Douglas Miller
Jacob M. Ward ²
William A. Ziehler ²

Fraser Clemens Martin & Miller LLC
28366 Kensington Lane
Perrysburg, Ohio 43551-4163

e-mail: johnson@fraser-ip.com
Telephone: (419) 874-1100
Facsimile: (419) 874-1130

April 16, 2012

Brenda J. Kruse
Carrie A. Johnson ³
Mandy M. Sinclair

Of Counsel
Sri Melethil, Ph.D. ⁴
¹ Admitted in Ohio and Michigan
² Admitted in Michigan only
³ Admitted in Georgia only
⁴ Admitted in Missouri only

Woodard, Emhardt, Moriarty, McNett & Henry LLP
Attention: Charles J. Meyer, Esq.
111 Monument Cir. STE 3700
Indianapolis, IN 46204-5107

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Re: Kiss My Face, LLC
(Our ref. 1-42190)

Dear Mr. Meyer:

Our office represents Kiss My Face, LLC in certain matters, including trademarks.

Kiss My Face recently discovered that Australian Gold, LLC has filed U.S. Trademark Application Serial No. 85/571,796 seeking registration of the mark KISS MY TULIPS on "indoor and outdoor non-medicated skin tanning preparations" based upon a *bona fide* intent to use the mark in commerce. We have sent this correspondence to you because you are identified as counsel of record in Australian Gold's trademark application.

The purpose of this letter is to advise Australian Gold of Kiss My Face's rights in a family of trademarks that include the words KISS MY FACE. Since at least 1978, Kiss My Face has used its family of KISS MY FACE marks in connection with personal care products made of natural or organic ingredients, including sun care preparations.

In addition, Kiss My Face owns the following U.S. federal trademark application and registrations for its marks:

1. U.S. Application Serial No. 85/563,688
KISS MY FACE

For: Personal care products, namely: all purpose soaps; alpha-hydroxy acid lotions; bar soaps; bath and shower gels; body lotions; body creams; body balms; body wash; cosmetics, including tinted lip gloss, lip tint, and tinted moisturizers; deodorants for personal use; exfoliating cleansers; facial cleansers; facial lotions, creams, and gels; facial masks; foaming soaps; foot creams and scrubs; shampoos; hair conditioners; hair detanglers; hair styling gels; hand lotions and creams; liquid soaps; moisturizing shower gel;

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KMF229

- mouthwash; non-medicated lip balms; shaving creams; skin toners; sun care products; and toothpaste and toothpaste gels in Class 3.
- First Use: December 1, 1978
Status: Pending
2. U.S. Registration No. 2,301,324
KISS MY FACE
For: Non-medicated lip balms, cosmetics, namely, lipsticks, foundations, conditioners, bath and body gels, facial creams, hand lotions, deodorants, soaps, shaving creams, skin lotions, skin toners and facial and body lotions in Class 3.
First Use: June 1993
Status: Registered; Incontestable
Registered: December 21, 1999
3. U.S. Registration No. 1,513,297
KISS MY FACE
For: Personal care products, namely, shampoos, soaps, creme rinses, skin toners and skin lotions in Class 3.
First Use: December 1, 1978
Status: Registered; Incontestable
Registered: November 22, 1988
4. U.S. Registration No. 1,991,868
KISS MY FACE
For: Retail shops featuring clothing, and personal care products, namely shampoos, soaps, creme rinses, powders, skin toners and skin lotions in Class 42.
First Use: November 1, 1994
Status: Registered; Incontestable
Registered: August 6, 1996
5. U.S. Registration No. 3,120,791
KISS MY FACE WOMEN'S
For: Personal care products, namely, toothpaste in Class 3.
First Use: January 18, 2005
Status: Registered
Registered: July 25, 2006
6. U.S. Registration No. 3,120,790
KISS MY FACE WAKE UP
For: Personal care products, namely, toothpaste in Class 3.
First Use: January 18, 2005
Status: Registered
Registered: July 25, 2006
7. U.S. Registration No. 3,120,784

KISS MY FACE WHITENING

For: Personal care products, namely, toothpastes in Class 3.
First Use: November 5, 2001
Status: Registered
Registered: July 25, 2006

8. U.S. Registration No. 3,120,755
KISS MY FACE TRIPLE ACTION
For: Toothpaste in Class 3.
First Use: November 5, 2001
Status: Registered
Registered: July 25, 2006

9. U.S. Registration No. 3,590,613
KISS MY FACE MOISTURE SOAP
For: Personal care products, namely, soaps in Class 3.
First Use: June 1986
Status: Registered
Registered: March 17, 2009

Printouts from the U.S. Patent and Trademark Office ("the PTO") database for these registrations and application are enclosed.

As indicated above, many of Kiss My Face's marks are the subject of incontestable registrations pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, and serve as conclusive evidence of Kiss My Face's ownership of the marks and of its exclusive rights to use the marks in commerce on the associated goods and services, subject to very limited exceptions.

Kiss My Face has expended considerable sums in its family of KISS MY FACE marks and has developed substantial good will in its marks by virtue of use. In order to protect the good will associated with its family of marks, it is incumbent upon our client to police their use and to prevent others from using the same marks or any marks that are confusingly similar.

It is in this light that we bring this matter to your attention. Australian Gold's proposed use of the mark KISS MY TULIPS will infringe Kiss My Face's valuable trademark rights. It may also be actionable as a deceptive trade practice under various state laws.

As you are likely aware, under U.S. Federal Trademark Laws, when trademark infringement is established, the plaintiff is entitled to recover (1) the defendant's profits, (2) any damages sustained by plaintiff, and (3) the cost of the action. In assessing damages, the court may treble the damages and grant attorney fees to the prevailing party. These situations tend to occur when the infringement is willful.

We can appreciate that Australian Gold may not previously have known of our client's family of KISS MY FACE marks. Nonetheless, it is not in the interests of either company to use highly similar marks to offer identical goods to identical consumers in identical channels of trade.

April 16, 2012
Page 4

Accordingly, we must request your assurances that Australian Gold will not adopt the mark KISS MY TULIPS and that it will abandon U.S. Application Serial No. 85/571,796.

We are confident that the PTO will cite Kiss My Face's prior registrations and application as grounds for refusing registration of the mark KISS MY TULIPS. However, in the unlikely event that the PTO allows Australian Gold's application for registration, Kiss My Face will have no choice but to file a Notice of Opposition with the Trademark Trial and Appeal Board.

We will await your prompt written assurances that Australian Gold will abandon U.S. Application Serial No. 85/571,796 and forgo plans to use the KISS MY TULIPS mark.

Sincerely,

FRASER CLEMENS MARTIN & MILLER LLC



Carrie A. Johnson

CAJ/ceg
Enclosures

c Kiss My Face, LLC
Rick Martin, Esq.

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KMF232

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2012-05-16 15:22:54 ET

Serial Number: 85571796 Assignment Information Trademark Document
Retrieval

Registration Number: (NOT AVAILABLE)

Mark

KISS MY TULIPS

(words only): KISS MY TULIPS

Standard Character claim: Yes

Current Status: Abandoned because the applicant filed an express abandonment. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

Date of Status: 2012-05-14

Filing Date: 2012-03-16

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 042 -New Application Processing

Date In Location: 2012-03-26

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Australian Gold, LLC

Address:

Australian Gold, LLC
6270 Corporate Drive
Indianapolis, IN 46278
United States

Legal Entity Type: Limited Liability Company

State or Country Where Organized: Indiana

GOODS AND/OR SERVICES

International Class: 003

Class Status: Active

Indoor and outdoor non-medicated skin tanning preparations

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2012-05-14 - Abandonment Notice Mailed - Express Abandonment

2012-05-14 - Abandonment - Express mailed

2012-05-11 - TEAS Express Abandonment Received

2012-03-26 - New Application Office Supplied Data Entered In Tram

2012-03-20 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Charles J. Meyer

Correspondent

CHARLES J. MEYER

WOODARD, EMHARDT, MORIARTY, MCNETT & HEN

111 MONUMENT CIR STE 3700

INDIANAPOLIS, IN 46204-5107



United States Patent and Trademark Office

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KISS MY TULIPS

Word Mark	KISS MY TULIPS
Goods and Services	(ABANDONED) IC 003. US 001 004 006 050 051 052. G & S: Indoor and outdoor non-medicated skin tanning preparations
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	85571796
Filing Date	March 16, 2012
Current Basis	1B
Original Filing Basis	1B
Owner	(APPLICANT) Australian Gold, LLC LIMITED LIABILITY COMPANY INDIANA 6270 Corporate Drive Indianapolis INDIANA 46278
Attorney of Record	Charles J. Meyer
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	DEAD
Abandonment Date	May 11, 2012

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Kiss My Face, LLC,

Opposer,

v.

Kerone's InStyle Studio

Applicant.

)
)
) Opposition No. _____

) U.S. Application Serial No. 85/825,221

) KISS BY KERONE and Design
)
)
)

Notice of Opposition

Opposer Kiss My Face, LLC ("Opposer") believes that it will be damaged by the registration of the mark KISS BY KERONE and Design for a variety of personal care products in International Class 003 as shown in U.S. Application Serial No. 85/825,221.

As grounds for opposition, it is alleged that:

1. Since at least as early as 1978, Opposer has used a family of marks comprising or containing the words KISS MY FACE, which are used in connection with personal care products, including facial moisturizers.
2. Due to Opposer's long and continuous use of its family of KISS MY FACE marks in connection with its personal care products, Opposer's family of KISS MY FACE marks are widely recognized by the public as an indicator of the source of Opposer's goods.
3. Opposer owns the following federal trademark registrations issued by the U. S. Patent and Trademark Office:

A. U.S. Registration No. 2,301,324

KISS MY FACE

For:

Non-medicated lip balms, cosmetics, namely, lipsticks, foundations, conditioners, bath and body gels, facial

creams, hand lotions, deodorants, soaps, shaving creams, skin lotions, skin toners and facial and body lotions in Class 3.
First Use: June 1993
Status: Registered; Incontestable
Registered: December 21, 1999

B. U.S. Registration No. 4,229,593

KISS MY FACE

For: Personal care products, namely: all purpose soaps; alpha-hydroxy acid lotions; bar soaps; bath and shower gels; body lotions; body creams; body balms; body wash; cosmetics, including tinted lip gloss, lip tint, and tinted moisturizers; deodorants for personal use; exfoliating cleansers; facial cleansers; facial lotions, creams, and gels; facial masks; foaming soaps; foot creams and scrubs; shampoos; hair conditioners; hair detanglers; hair styling gels; hand lotions and creams; liquid soaps; moisturizing shower gel; mouthwash; non-medicated lip balms; shaving creams; skin toners; sun care products; and toothpaste and toothpaste gels in Class 3.

First Use: December 1, 1978
Status: Registered
Registered: October 23, 2012

C. U.S. Registration No. 1,513,297

KISS MY FACE

For: Personal care products, namely, shampoos, soaps, creme rinses, skin toners and skin lotions in Class 3.

First Use: December 1, 1978
Status: Registered; Incontestable
Registered: November 22, 1988

D. U.S. Registration No. 4,450,641



For: Personal care products, namely, all purpose soaps, moisturizing soaps, alpha-hydroxy acid face and body lotions, bar soaps, bath and shower gels, body lotions, body creams, body balms, body wash, cosmetics, tinted lip gloss, lip tint, tinted moisturizers, deodorants for personal use, exfoliating cleansers, facial cleansers, facial lotions, facial creams, facial gels, facial masks, foaming soaps, non-medicated foot creams, foot scrubs, shampoos, hair

conditioners, hair detanglers, hair styling gels, hand lotions, hand creams, liquid soaps, moisturizing shower gel, mouthwash, non-medicated lip balms, shaving creams, moisturizing shaving creams, skin toners, non-medicated sun care preparations, sun tanning preparations, toothpaste, and toothpaste gels in Class 3.

First Use: September 1978
Status: Registered
Registered: December 17, 2013

E. U.S. Registration No. 4,450,642



For: Personal care products, namely, all purpose soaps, moisturizing soaps, alpha-hydroxy acid face and body lotions, bar soaps, bath and shower gels, body lotions, body creams, body balms, body wash, cosmetics, tinted lip gloss, lip tint, tinted moisturizers, deodorants for personal use, exfoliating cleansers, facial cleansers, facial lotions, facial creams, facial gels, facial masks, foaming soaps, non-medicated foot creams, foot scrubs, shampoos, hair conditioners, hair detanglers, hair styling gels, hand lotions, hand creams, liquid soaps, moisturizing shower gel, mouthwash, non-medicated lip balms, shaving creams, moisturizing shaving creams, skin toners, non-medicated sun care preparations, sun tanning preparations, toothpaste, and toothpaste gels in Class 3.

First Use: September 1978
Status: Registered
Registered: December 17, 2013

F. U.S. Registration No. 3,120,784

KISS MY FACE WHITENING

For: Personal care products, namely, toothpastes in Class 3.
First Use: November 5, 2001
Status: Registered
Registered: July 25, 2006

G. U.S. Registration No. 3,590,613

KISS MY FACE MOISTURE SOAP

For: Personal care products, namely, soaps in Class 3.
First Use: June 1986
Status: Registered
Registered: March 17, 2009

H. U.S. Registration No. 4,268,625

KISS MY FACE PEACE and Design

For: All purpose soaps, bar soaps, bath and shower gels, body lotions, body washes, cosmetics, foaming soaps, hand lotions, body creams and body balms, liquid soaps, non-medicated lip balms, personal care products, namely, facial creams, foot creams, hand creams, deodorants for personal use, hair conditioners, hair detanglers, hair styling gels, mouthwashes, breath fresheners, shampoos, shaving creams, toothpastes, non-medicated sun care preparations and non-medicated sunscreen preparations in Class 3.

First Use: May 1, 2010

Status: Registered

Registered: January 1, 2013

I. U.S. Registration No. 4,200,053

KISS MY FACE SHIMMER

For: Non-medicated tinted lip balms.

First Use: March 20, 2012

Status: Registered

Registered: August 28, 2012

4. Copies of the records for these trademark registrations from the U.S. Patent and Trademark Office's TSDR database are attached as Exhibit A.

5. As indicated above, many of Opposer's KISS MY FACE marks are the subject of incontestable registrations pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, and serve as conclusive evidence of Opposer's ownership of the marks and of Opposer's exclusive rights to use the marks in commerce on or in connection with the goods identified in the registrations under Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

6. On January 16, 2013 Kerone's InStyle Studio ("Applicant") filed U.S. Application Serial No. 85/825,221 for the mark KISS BY KERONE and Design, claiming a date of first use of October 25, 2012, and a date of first use in interstate commerce of December 1, 2012, on the following goods:

Antibacterial skin soaps; Astringents for cosmetic purposes; Bleaching preparations for cosmetic purposes; Body and beauty care cosmetics; Cleansing creams; Colognes, perfumes and cosmetics; Concealers; Cosmetic balls; Cosmetic bath salts; Cosmetic creams; Cosmetic creams for skin care; Cosmetic hair dressing preparations; Cosmetic hand creams; Cosmetic masks; Cosmetic massage creams; Cosmetic milks; Cosmetic nourishing creams; Cosmetic oils; Cosmetic oils for the epidermis; Cosmetic olive oil for the face and body; Cosmetic pencils; Cosmetic preparations; Cosmetic preparations against sunburn; Cosmetic preparations for bath and shower; Cosmetic preparations for body care; Cosmetic preparations for eye lashes; Cosmetic preparations for skin care; Cosmetic preparations for skin renewal; Cosmetic preparations for the hair and scalp; Cosmetic preparations, namely, firming creams; Cosmetic preparations, namely, firming lotions; Cosmetic preparations, namely, skin balsams; Cosmetic products in the form of aerosols for skin care; Cosmetic products in the form of aerosols for skincare; Cosmetic rouges; Cosmetic skin fresheners; Cosmetic soaps; Cosmetic sun oils; Cosmetic sun-protecting preparations; Cosmetic white face powder; Cosmetics; Cosmetics and cosmetic preparations; Cosmetics and make-up; Cosmetics in general, including perfumes; Cosmetics in the form of milks, lotions and emulsions; Cosmetics, namely, compacts; Cosmetics, namely, lip primer; Cosmetics, namely, lip repairers; Eye compresses for cosmetic purposes; Eye cream; Eye gels; Eye liner; Eye lotions; Eye make-up; Eye make-up remover; Eye pencils; Eye shadow; Eye shadows; Eye-shadow; Eyebrow cosmetics; Eyes make-up; Eyes pencils; Face creams and cleansers containing benzoyl peroxide for cosmetic purposes; Face creams for cosmetic use; Fingernail jewelry; Foundation; Foundation make-up; Foundations; Gel eye masks; Gift baskets containing non-medicated bath preparations and cosmetic preparations; Glitter for cosmetic purposes; Lip stains; Liquid foundation (mizu-oshiroi); Make up foundations; Make-up foundations; Make-up kits comprised of makeup, and non-medicated skin care preparations; Mask pack for cosmetic purposes; Milk for cosmetic purposes; Moisturizing preparations for the skin; Moisturizing solutions for the skin; Natural mineral make-up; Non-medicated facial and eye serum containing antioxidants; Non-medicated skin care preparations, namely, creams, lotions, gels, toners, cleaners and peels; Nutritional oils for cosmetic purposes; Oils for cosmetic purposes; Pencils for cosmetic purposes; Perfume oils for the manufacture of cosmetic preparations; Plant and herb extracts sold as components of cosmetics; Private label cosmetics; Rose oil for cosmetic purposes; Shea butter for cosmetic purposes; Skin and body topical lotions, creams and oils for cosmetic use; Skin cleansers; Skin cleansing cream; Skin cleansing lotion; Skin conditioners; Skin conditioning creams for cosmetic purposes; Skin creams in liquid and in solid form; Skin emollients; Skin fresheners; Skin gels for accelerating, enhancing or extending tans; Skin lighteners; Skin lightening creams; Skin lotion; Skin lotions; Skin masks; Skin moisturizer; Skin moisturizer masks; Skin moisturizing gel; Skin soap; Skin toners; Skin whitening creams; Soaps; Toners; Topical skin sprays for cosmetic purposes; Under-eye enhancers; Wrinkle removing skin care preparations; Wrinkle-minimizing cosmetic preparations for topical facial use in International Class 003.

7. On information and belief, Opposer's rights in its distinctive mark KISS MY FACE marks predate Applicant's first use of the mark KISS BY KERONE and Design.

8. On information and belief, since long prior to Applicant's first use of the mark KISS BY KERONE and Design, and as a result of widespread promotion by Opposer, Opposer's family of KISS MY FACE marks have acquired a high degree of recognition and distinctiveness as a symbol of the quality of goods offered by Opposer.

9. The stylization and design elements in applicant's mark further increase the likelihood of confusion, because the font used is very similar to the font used by Opposer in its mark, as shown below:

Opposer's Mark:



Applicant's Mark:



10. Applicant's KISS BY KERONE and Design mark so resembles Opposer's family of KISS MY FACE marks as to be likely, when used with Applicant's goods, to cause confusion, to cause mistake, or to deceive the trade and public, who are likely to believe that Applicant's goods have their origin with Opposer and/or that such goods are authorized, licensed, endorsed, or sponsored by Opposer. Opposer would thereby be injured by the granting to Applicant of a Certificate of Registration for Applicant's KISS BY KERONE and Design mark.

WHEREFORE, Opposer believes that it will be damaged by the registration of Applicant's KISS BY KERONE and Design mark and requests that the opposition be sustained and that said registration be denied.

The required fee of \$300 for instituting this proceeding is submitted electronically
herewith.

Date: May 12, 2014

Respectfully submitted,

/s/ Carrie A. Johnson
Carrie A. Johnson
Fraser Clemens Martin & Miller LLC
28366 Kensington Lane
Perrysburg, Ohio 43551
419-874-1100 (Voice)
419-874-1130 (Fax)
johnaon@fraser-ip.com
firm@fraser-ip.com

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Kiss My Face, LLC,)	
)	
Opposer,	)	Opposition No. _____
)	
v.	)	U.S. Application Serial No. 85/825,221
)	
Kerone's InStyle Studio	)	KISS BY KERONE and Design
)	
Applicant.)	
)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on May 12, 2014 I caused a true and correct copy of the foregoing Notice of Opposition to be sent to the Applicant via First Class Mail, postage prepaid, to the Applicant's Attorney/Correspondence address of record:

Jason R. Lee
Kerone's InStyle Studios, LLC
10030 Loquat Street
Miramar, FL 33025

Date: May 12, 2014

Respectfully submitted,

/s/ Carrie A. Johnson
Carrie A. Johnson
Fraser Clemens Martin & Miller LLC
28366 Kensington Lane
Perrysburg, Ohio 43551
firm@fraser-ip.com (Email)
419-874-1100 (Voice)
419-874-1130 (Fax)

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451
General Contact Number: 571-272-8500

REA

Mailed: July 10, 2014

Opposition No. 91216331

Kiss My Face, LLC

v.

Kerone's InStyle Studio, LLC

Denise DelGizzi, Technical Program Manager:

An answer to the notice of opposition was due in this proceeding on June 21, 2014. Inasmuch as it appears that no answer has been filed, nor has applicant filed a motion to extend the time to file an answer, notice of default is hereby entered against applicant pursuant to Fed. R. Civ. P. 55(a).¹

Applicant is allowed until thirty days from the mailing date of this order to show cause as to why a judgment by default should not be entered against applicant, in accordance with Fed. R. Civ. P. 55(b)(2).

¹ Inasmuch as applicant is in default, the parties' obligations to hold the discovery conference, and to serve initial disclosures, are effectively stayed. See TBMP § 312.01.

ESTTA Tracking number: **ESTTA582678**

Filing date: **01/20/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Kiss My Face, LLC
Granted to Date of previous extension	01/22/2014
Address	11766 Wilshire Boulevard, Suite 850 Los Angeles, CA 90025-6567 UNITED STATES

Correspondence Information	Carrie A. Johnson Fraser Clemens Martin & Miller LLC 28366 Kensington Lane Perrysburg, OH 43551 UNITED STATES firm@fraser-ip.com, johnson@fraser-ip.com Phone:4198741100
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Applicant Information

Application No	85901863	Publication date	09/24/2013
Opposition Filing Date	01/20/2014	Opposition Period Ends	01/22/2014
Applicant	Talbot, Patricia O. 189 E. Whittier Street Columbus, OH 43206 OH		

Goods/Services Affected by Opposition

Class 003. First Use: 2013/01/02 First Use In Commerce: 2013/01/02 All goods and services in the class are opposed, namely: Facial moisturizers
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Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	2301324	Application Date	09/22/1997
Registration Date	12/21/1999	Foreign Priority Date	NONE
Word Mark	KISS MY FACE		


Design Mark	KISS MY FACE
Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1993/06/00 First Use In Commerce: 1993/06/00 non-medicated lip balms, cosmetics, namely, lipsticks, [mascaras,] foundations, conditioners, [body mists,] bath and body gels, facial creams, hand lotions, deodorants, soaps, shaving creams, skin lotions, skin toners and facial and body lotions

U.S. Registration No.	4229593	Application Date	03/08/2012
Registration Date	10/23/2012	Foreign Priority Date	NONE
Word Mark	KISS MY FACE		
Design Mark	KISS MY FACE		
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1978/12/01 First Use In Commerce: 1978/12/00 Personal care products, namely, all purpose liquid, hand, bar and cosmetic soaps, non-medicated alpha-hydroxy acid lotions, bar soaps, bath and shower gels, body lotions, body creams, body balms, body wash, cosmetics, deodorants for personal use, exfoliating cleansers, facial cleansers, facial lotions, facial creams, and facial gels, facial masks, foaming soaps, non-medicated foot creams and footscrubs, shampoos, hair conditioners, hair detanglers, hair styling gels, hand lotions and hand creams, liquid soaps, moisturizing shower gel, mouthwash, non-medicated lip balms, shaving creams, skin toners, non-medicated sun care products, and toothpaste and toothpaste gel		


U.S. Registration No.	1513297	Application Date	04/28/1988
Registration Date	11/22/1988	Foreign Priority Date	NONE
Word Mark	KISS MY FACE		
Design Mark			


Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1978/12/01 First Use In Commerce: 1978/12/01 PERSONAL CARE PRODUCTS--NAMELY, SHAMPOOS, SOAPS, CREME RINSES, SKIN TONERS AND SKIN LOTIONS

U.S. Registration No.	4450641	Application Date	04/16/2013
Registration Date	12/17/2013	Foreign Priority Date	NONE
Word Mark	KISS MY FACE		
Design Mark			
Description of Mark	The mark consists of the stylized words "KISS MY FACE" enclosed in a box. From top to bottom, the word "KISS" is on top, the word "MY" is in the middle, and the word "FACE" is on the bottom.		
Goods/Services	Class 003. First use: First Use: 1978/09/00 First Use In Commerce: 1978/09/00 Personal care products, namely, all purpose soaps, moisturizing soaps, alpha-hydroxy acid face and body lotions, bar soaps, bath and shower gels, body lotions, body creams, body balms, body wash, cosmetics, tinted lip gloss, lip tint, tinted moisturizers, deodorants for personal use, exfoliating cleansers, facial cleansers, facial lotions, facial creams, facial gels, facial masks, foaming soaps, non-medicated foot creams, foot scrubs, shampoos, hair conditioners, hair detanglers, hair styling gels, hand lotions, hand creams, liquid soaps, moisturizing shower gel, mouthwash, non-medicated lip balms, shaving creams, moisturizing shaving creams, skin toners, non-medicated sun care preparations, sun tanning preparations, toothpaste, and toothpaste gels		

U.S. Registration No.	4450642	Application Date	04/16/2013
Registration Date	12/17/2013	Foreign Priority Date	NONE
Word Mark	KISS MY FACE		
Design Mark			


Description of Mark	The mark consists of the stylized words "KISS MY FACE" enclosed in a box. From top to bottom, the word "KISS" is on top, the word "MY" is in the middle, and the word "FACE" is on the bottom.
Goods/Services	Class 003. First use: First Use: 1978/09/00 First Use In Commerce: 1978/09/00 Personal care products, namely, all purpose soaps, moisturizing soaps, alpha-hydroxy acid face and body lotions, bar soaps, bath and shower gels, body lotions, body creams, body balms, body wash, cosmetics, tinted lip gloss, lip tint, tinted moisturizers, deodorants for personal use, exfoliating cleansers, facial cleansers, facial lotions, facial creams, facial gels, facial masks, foaming soaps, non-medicated foot creams, foot scrubs, shampoos, hair conditioners, hair detanglers, hair styling gels, hand lotions, hand creams, liquid soaps, moisturizing shower gel, mouthwash, non-medicated lip balms, shaving creams, moisturizing shaving creams, skin toners, non-medicated sun care preparations, sun tanning preparations, toothpaste, and toothpaste gels

U.S. Registration No.	3120784	Application Date	10/14/2005
Registration Date	07/25/2006	Foreign Priority Date	NONE
Word Mark	KISS MY FACE WHITENING		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2001/11/05 First Use In Commerce: 2001/11/05 Personal Care Products, Namely, Toothpastes		

U.S. Registration No.	4268625	Application Date	04/26/2010
Registration Date	01/01/2013	Foreign Priority Date	NONE
Word Mark	KISS MY FACE PEACE		
Design Mark			
Description of	The mark consists of 3 columns, left and right columns containing the word		

Mark	"PEACE" in several languages and the center column contains the words "KISS MY FACE".
Goods/Services	Class 003. First use: First Use: 2010/05/01 First Use In Commerce: 2010/05/01 all purpose soaps, bar soaps, bath and shower gels, body lotions, body washes, cosmetics, foaming soaps, hand lotions, body creams and body balms, liquid soaps, non-medicated lip balms, personal careproducts, namely, facial creams, foot creams, hand creams, deodorants for personal use, hair conditioners, hair detanglers, hair styling gels, mouthwashes, breath fresheners, shampoos, shaving creams, toothpastes, non-medicated sun care preparations and non-medicated sunscreen preparations

U.S. Registration No.	3590613	Application Date	07/28/2008
Registration Date	03/17/2009	Foreign Priority Date	NONE
Word Mark	KISS MY FACE MOISTURE SOAP		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 1986/06/00 First Use In Commerce: 1986/06/00 personal care products, namely, soaps		

U.S. Registration No.	4200053	Application Date	10/18/2011
Registration Date	08/28/2012	Foreign Priority Date	NONE
Word Mark	KISS MY FACE SHIMMER		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 003. First use: First Use: 2012/03/20 First Use In Commerce: 2012/03/20 non-medicated tinted lip balms		

Attachments	75361218#TMSN.gif(bytes) 85563688#TMSN.jpeg(bytes) 85905675#TMSN.jpeg(bytes) 85905703#TMSN.jpeg(bytes) 78733434#TMSN.jpeg(bytes) 85023142#TMSN.jpeg(bytes) 77532702#TMSN.jpeg(bytes) 85449891#TMSN.jpeg(bytes) Notice of Opposition 1-20-14.pdf(268927 bytes) Exhibit A part 1 to notice of opposition 1-20-14.pdf(2329403 bytes) Exhibit A part 2 to notice of opposition 1-20-14.pdf(2380642 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/caj/
Name	Carrie A. Johnson
Date	01/20/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Kiss My Face, LLC,)	
)	
Opposer,	)	Opposition No. _____
)	
v.	)	U.S. Application Serial No. 85/901,863
)	
Patricia O. Talbot, DBA Patricia O. Talbot	)	WATER MY FACE
)	
Applicant.)	
)	

Notice of Opposition

Opposer Kiss My Face, LLC ("Opposer") believes that it will be damaged by the registration of the mark WATER MY FACE for "facial moisturizers" in International Class 003 as shown in U.S. Application Serial No. 85/901,863.

As grounds for opposition, it is alleged that:

1. Since at least as early as 1978, Opposer has used a family of marks comprising or containing the words KISS MY FACE, which are used in connection with personal care products, including facial moisturizers.
2. Due to Opposer's long and continuous use of its family of KISS MY FACE marks in connection with its personal care products, Opposer's family of KISS MY FACE marks are widely recognized by the public as an indicator of the source of Opposer's goods.
3. Opposer owns the following federal trademark registrations issued by the U. S. Patent and Trademark Office:

- A. U.S. Registration No. 2,301,324
KISS MY FACE
For: Non-medicated lip balms, cosmetics, namely, lipsticks, foundations, conditioners, bath and body gels, facial

creams, hand lotions, deodorants, soaps, shaving creams, skin lotions, skin toners and facial and body lotions in Class 3.

First Use: June 1993
Status: Registered; Incontestable
Registered: December 21, 1999

B. U.S. Registration No. 4,229,593

KISS MY FACE

For: Personal care products, namely: all purpose soaps; alpha-hydroxy acid lotions; bar soaps; bath and shower gels; body lotions; body creams; body balms; body wash; cosmetics, including tinted lip gloss, lip tint, and tinted moisturizers; deodorants for personal use; exfoliating cleansers; facial cleansers; facial lotions, creams, and gels; facial masks; foaming soaps; foot creams and scrubs; shampoos; hair conditioners; hair detanglers; hair styling gels; hand lotions and creams; liquid soaps; moisturizing shower gel; mouthwash; non-medicated lip balms; shaving creams; skin toners; sun care products; and toothpaste and toothpaste gels in Class 3.

First Use: December 1, 1978
Status: Registered
Registered: October 23, 2012

C. U.S. Registration No. 1,513,297

KISS MY FACE

For: Personal care products, namely, shampoos, soaps, creme rinses, skin toners and skin lotions in Class 3.

First Use: December 1, 1978
Status: Registered; Incontestable
Registered: November 22, 1988

D. U.S. Registration No. 4,450,641



For: Personal care products, namely, all purpose soaps, moisturizing soaps, alpha-hydroxy acid face and body lotions, bar soaps, bath and shower gels, body lotions, body creams, body balms, body wash, cosmetics, tinted lip gloss, lip tint, tinted moisturizers, deodorants for personal use, exfoliating cleansers, facial cleansers, facial lotions, facial creams, facial gels, facial masks, foaming soaps, non-medicated foot creams, foot scrubs, shampoos, hair conditioners, hair detanglers, hair styling gels, hand lotions, hand creams, liquid soaps, moisturizing shower gel, mouthwash, non-medicated lip balms, shaving creams, moisturizing shaving creams, skin toners, non-medicated sun care preparations, sun tanning preparations, toothpaste, and toothpaste gels in Class 3.

First Use: September 1978
Status: Registered
Registered: December 17, 2013

E. U.S. Registration No. 4,450,642



For: Personal care products, namely, all purpose soaps, moisturizing soaps, alpha-hydroxy acid face and body lotions, bar soaps, bath and shower gels, body lotions, body creams, body balms, body wash, cosmetics, tinted lip gloss, lip tint, tinted moisturizers, deodorants for personal use, exfoliating cleansers, facial cleansers, facial lotions, facial creams, facial gels, facial masks, foaming soaps, non-medicated foot creams, foot scrubs, shampoos, hair conditioners, hair detanglers, hair styling gels, hand lotions, hand creams, liquid soaps, moisturizing shower gel, mouthwash, non-medicated lip balms, shaving creams, moisturizing shaving creams, skin toners, non-medicated sun care preparations, sun tanning preparations, toothpaste, and toothpaste gels in Class 3.

First Use: September 1978
Status: Registered
Registered: December 17, 2013

F. U.S. Registration No. 3,120,784

KISS MY FACE WHITENING

For: Personal care products, namely, toothpastes in Class 3.

First Use: November 5, 2001
Status: Registered

Registered: July 25, 2006

G. U.S. Registration No. 3,590,613

KISS MY FACE MOISTURE SOAP

For: Personal care products, namely, soaps in Class 3.

First Use: June 1986

Status: Registered

Registered: March 17, 2009

H. U.S. Registration No. 4,268,625

KISS MY FACE PEACE and Design

For: All purpose soaps, bar soaps, bath and shower gels, body lotions, body washes, cosmetics, foaming soaps, hand lotions, body creams and body balms, liquid soaps, non-medicated lip balms, personal care products, namely, facial creams, foot creams, hand creams, deodorants for personal use, hair conditioners, hair detanglers, hair styling gels, mouthwashes, breath fresheners, shampoos, shaving creams, toothpastes, non-medicated sun care preparations and non-medicated sunscreen preparations in Class 3.

First Use: May 1, 2010

Status: Registered

Registered: January 1, 2013

I. U.S. Registration No. 4,200,053

KISS MY FACE SHIMMER

For: Non-medicated tinted lip balms.

First Use: March 20, 2012

Status: Registered

Registered: August 28, 2012

4. Copies of the records for these trademark registrations from the U.S. Patent and Trademark Office's TSDR database are attached as Exhibit A.

5. As indicated above, many of Opposer's KISS MY FACE marks are the subject of incontestable registrations pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, and serve as conclusive evidence of Opposer's ownership of the marks and of Opposer's exclusive rights to use the marks in commerce on or in connection with the goods identified in the registrations under Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

6. On April 11, 2013 Patricia O. Talbot ("Applicant") filed U.S. Application Serial No. 85/901,863 for the mark WATER MY FACE for "facial moisturizers" in International Class 003, based upon use of the mark in commerce since January 2, 2013.

7. On information and belief, Opposer's rights in its distinctive mark KISS MY FACE marks predate Applicant's first use of the mark WATER MY FACE.

8. On information and belief, since long prior to Applicant's first use of the mark WATER MY FACE, and as a result of widespread promotion by Opposer, Opposer's family of KISS MY FACE marks have acquired a high degree of recognition and distinctiveness as a symbol of the quality of goods offered by Opposer.

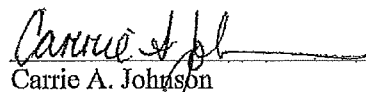
9. Applicant's WATER MY FACE mark so resembles Opposer's family of KISS MY FACE marks as to be likely, when used with Applicant's goods, to cause confusion, to cause mistake, or to deceive the trade and public, who are likely to believe that Applicant's goods have their origin with Opposer and/or that such goods are authorized, licensed, endorsed, or sponsored by Opposer. Opposer would thereby be injured by the granting to Applicant of a Certificate of Registration for Applicant's WATER MY FACE mark.

WHEREFORE, Opposer believes that it will be damaged by the registration of Applicant's WATER MY FACE mark and requests that the opposition be sustained and that said registration be denied.

The required fee of \$300 for instituting this proceeding is submitted electronically herewith.

Date: January 20, 2014

Respectfully submitted,



Carrie A. Johnson
Fraser Clemens Martin & Miller LLC

28366 Kensington Lane
Perrysburg, Ohio 43551
419-874-1100 (Voice)
419-874-1130 (Fax)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

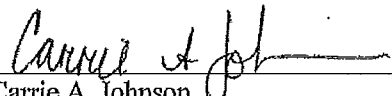
Kiss My Face, LLC,)	
)	
Opposer,	)	Opposition No. _____
)	
v.	)	U.S. Application Serial No. 85/901,863
)	
Patricia O. Talbot, DBA Patricia O. Talbot	)	WATER MY FACE
)	
Applicant,)	
)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on January 20, 2014 I caused a true and correct copy of the foregoing Notice of Opposition to be sent via to the Applicant via First Class Mail, postage prepaid, to the Applicant's Correspondent address of record of record:

Patricia O. Talbot
189 E. Whittier Street
Columbus OHIO 43206

Date: January 20, 2014


Carrie A. Johnson
Fraser Clemens Martin & Miller LLC
28366 Kensington Lane
Perrysburg, Ohio 43551
firm@fraser-ip.com (Email)
419-874-1100 (Voice)
419-874-1130 (Fax)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding.	91214547
Applicant	Plaintiff Kiss My Face, LLC
Other Party	Defendant Talbot, Patricia O.
Have the parties held their discovery conference as required under Trademark Rules 2.120(a)(1) and (a)(2)?	No

**Motion for an Extension of Answer or Discovery or Trial Periods With
Consent**

The Defendant's Time to Answer is currently set to close on 04/30/2014. Kiss My Face, LLC requests that such date be extended for 30 days, or until 05/30/2014, and that all subsequent dates be reset accordingly.

Time to Answer :	05/30/2014
Deadline for Discovery Conference :	06/29/2014
Discovery Opens :	06/29/2014
Initial Disclosures Due :	07/29/2014
Expert Disclosure Due :	11/26/2014
Discovery Closes :	12/26/2014
Plaintiff's Pretrial Disclosures :	02/09/2015
Plaintiff's 30-day Trial Period Ends :	03/26/2015
Defendant's Pretrial Disclosures :	04/10/2015
Defendant's 30-day Trial Period Ends :	05/25/2015
Plaintiff's Rebuttal Disclosures :	06/09/2015
Plaintiff's 15-day Rebuttal Period Ends :	07/09/2015

*no Answer filed as of 7/16/14
CAS*

The grounds for this request are as follows:

Parties are engaged in settlement discussions

Kiss My Face, LLC has secured the express consent of all other parties to this proceeding for the extension and resetting of dates requested herein.

Kiss My Face, LLC has provided an e-mail address herewith for itself and for the opposing party so that any order on this motion may be issued electronically by the Board.

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Respectfully submitted,
/caj/

carrie a. johnson
firm@fraser-ip.com, johnson@fraser-ip.com
patricia.o.talbot@gmail.com
04/30/2014

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

April 30, 2014

PROCEEDING NO. 91214547
Kiss My Face, LLC

v.

Talbot, Patricia O.

MOTION TO EXTEND GRANTED

By the Board:

Kiss My Face, LLC's consent motion to extend, filed Apr 30, 2014, is granted. Dates are reset as set out in the motion.

.oOo.

CONFIDENTIAL

FRASER CLEMENS MARTIN MILLER

INTELLECTUAL PROPERTY AND TECHNOLOGY LAW

Donald R. Fraser (1927-2010)
William J. Clemens ^{OH, MI}
J. Douglas Miller ^{OH}
Jacob M. Ward ^{MI}
Michael B. Dockings ^{OH, MI}
William A. Ziehler, Ph.D. ^{MI}
Carrie A. Johnson ^{OH, GA}
C. Fred Charpie, III ^{OH}

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Richard G. Martin ^{OH}
Thomas J. Krul ^{MI}
Stefan V. Chmielewski ^{MI}
Scott L. Seaman ^{OH}
Kristen M. Fries ^{OH}
Andrew J. Bocs ^{OH}

Of Counsel
Sri Melethil, Ph.D. ^{MO}

Superscripts indicate bar admissions

May 14, 2014

Belzer PC
Attention: Kate D. Strain, Esq.
2905 Bull St.
Savannah, Georgia 31405

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Re: Kiss My Face, LLC
(Our ref. 55780-1)

Dear Ms. Strain:

Our office represents Kiss My Face, LLC in certain matters, including trademarks.

Kiss My Face recently discovered that your client, Tybee Salt Cottage, LLC, has filed U.S. Trademark Application Serial No. 86/171,906 seeking registration of the mark KISS MY GRITS on "lip scrub". We have sent this correspondence to you because you are identified as counsel of record in Tybee Salt Cottage's trademark application.

The purpose of this letter is to advise Tybee Salt Cottage of Kiss My Face's rights in a family of trademarks that include the words KISS MY FACE. Since at least 1978, Kiss My Face has used its family of KISS MY FACE marks in connection with personal care products, including lip care products.

In addition, Kiss My Face owns the following U.S. federal trademark registrations for its marks:

1. U.S. Registration No. 4,229,593
KISS MY FACE

For: Personal care products, namely: all purpose soaps; alpha-hydroxy acid lotions; bar soaps; bath and shower gels; body lotions; body creams; body balms; body wash; cosmetics, including tinted lip gloss, lip tint, and tinted moisturizers; deodorants for personal use; exfoliating cleansers; facial cleansers; facial lotions, creams, and gels; facial masks; foaming soaps; foot creams and scrubs; shampoos; hair conditioners; hair detanglers; hair styling gels; hand lotions and creams; liquid soaps; moisturizing shower gel; mouthwash; non-medicated lip balms; shaving creams; skin

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- toners; sun care products; and toothpaste and toothpaste gels in Class 3.
- First Use: December 1, 1978
Status: Registered
Registered: October 23, 2012
2. U.S. Registration No. 2,301,324
KISS MY FACE
For: Non-medicated lip balms, cosmetics, namely, lipsticks, foundations, conditioners, bath and body gels, facial creams, hand lotions, deodorants, soaps, shaving creams, skin lotions, skin toners and facial and body lotions in Class 3.
First Use: June 1993
Status: Registered; Incontestable
Registered: December 21, 1999
3. U.S. Registration No. 1,513,297
KISS MY FACE
For: Personal care products, namely, shampoos, soaps, creme rinses, skin toners and skin lotions in Class 3.
First Use: December 1, 1978
Status: Registered; Incontestable
Registered: November 22, 1988
5. U.S. Registration No. 4,268,625
KISS MY FACE PEACE and Design
For: All purpose soaps, bar soaps, bath and shower gels, body lotions, body washes, cosmetics, foaming soaps, hand lotions, body creams and body balms, liquid soaps, non-medicated lip balms, personal care products, namely, facial creams, foot creams, hand creams, deodorants for personal use, hair conditioners, hair detanglers, hair styling gels, mouthwashes, breath fresheners, shampoos, shaving creams, toothpastes, non-medicated sun care preparations and non-medicated sunscreen preparations in Class 3.
First Use: May 1, 2010
Status: Registered
Registered: January 1, 2013
6. U.S. Registration No. 3,120,784
KISS MY FACE WHITENING
For: Personal care products, namely, toothpastes in Class 3.
First Use: November 5, 2001
Status: Registered
Registered: July 25, 2006
7. U.S. Registration No. 3,590,613
KISS MY FACE MOISTURE SOAP

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For: Personal care products, namely, soaps in Class 3.
First Use: June 1986
Status: Registered
Registered: March 17, 2009

8. U.S. Registration No. 4,450,642

KISS MY FACE and Design

For: Personal care products, namely, all purpose soaps, moisturizing soaps, alpha-hydroxy acid face and body lotions, bar soaps, bath and shower gels, body lotions, body creams, body balms, body wash, cosmetics, tinted lip gloss, lip tint, tinted moisturizers, deodorants for personal use, exfoliating cleansers, facial cleansers, facial lotions, facial creams, facial gels, facial masks, foaming soaps, non-medicated foot creams, foot scrubs, shampoos, hair conditioners, hair detanglers, hair styling gels, hand lotions, hand creams, liquid soaps, moisturizing shower gel, mouthwash, non-medicated lip balms, shaving creams, moisturizing shaving creams, skin toners, non-medicated sun care preparations, sun tanning preparations, toothpaste, and toothpaste gels in Class 3.
First Use: September 1978
Status: Registered
Registered: December 17, 2013

9. U.S. Registration No. 4,450,641

KISS MY FACE and Design

For: Personal care products, namely, all purpose soaps, moisturizing soaps, alpha-hydroxy acid face and body lotions, bar soaps, bath and shower gels, body lotions, body creams, body balms, body wash, cosmetics, tinted lip gloss, lip tint, tinted moisturizers, deodorants for personal use, exfoliating cleansers, facial cleansers, facial lotions, facial creams, facial gels, facial masks, foaming soaps, non-medicated foot creams, foot scrubs, shampoos, hair conditioners, hair detanglers, hair styling gels, hand lotions, hand creams, liquid soaps, moisturizing shower gel, mouthwash, non-medicated lip balms, shaving creams, moisturizing shaving creams, skin toners, non-medicated sun care preparations, sun tanning preparations, toothpaste, and toothpaste gels in Class 3.
First Use: September 1978
Status: Registered
Registered: December 17, 2013

10 U.S. Registration No. 4,200,053

KISS MY FACE SHIMMER

For: Non-medicated tinted lip balms in Class 3.
First Use: March 20, 2012
Status: Registered

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Registered: August 28, 2012

Printouts from the U.S. Patent and Trademark Office database for these registrations are enclosed.

As indicated above, many of Kiss My Face's marks are the subject of incontestable registrations pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, and serve as conclusive evidence of Kiss My Face's ownership of the marks and of its exclusive rights to use the marks in commerce on the associated goods, subject to very limited exceptions.

Kiss My Face has expended considerable sums in its family of KISS MY FACE marks and has developed substantial good will in its marks by virtue of use. In order to protect the good will associated with its family of marks, it is incumbent upon our client to police their use and to prevent others from using the same marks or any marks that are confusingly similar.

It is in this light that we bring this matter to your attention. Tybee Salt Cottage's use and registration of the mark KISS MY GRITS infringes Kiss My Face's valuable trademark rights. It may also be actionable as a deceptive trade practice under various state laws.

As you know, under U.S. Federal Trademark Laws, when trademark infringement is established, the plaintiff is entitled to recover (1) the defendant's profits, (2) any damages sustained by plaintiff, and (3) the cost of the action. In assessing damages, the court may treble the damages and grant attorney fees to the prevailing party. These situations tend to occur when the infringement is willful.

We can appreciate that Tybee Salt Cottage may not previously have known of our client's family of KISS MY FACE marks. Nonetheless, it is not in the interests of either Tybee Salt Cottage or Kiss My Face to use highly similar marks on lip care products. Accordingly, we must request assurances that Tybee Salt Cottage will cease use of the mark KISS MY GRITS on lip scrub or related products and that it will abandon U.S. Trademark Application Serial No. 86/171,906. In the absence of such assurances, Kiss My Face will have no choice but to file a Notice of Opposition with the Trademark Trial and Appeal Board.

Sincerely,

FRASER CLEMENS MARTIN & MILLER LLC

Carrie A. Johnson

Carrie A. Johnson

Direct Number: (419) 365-2067

E-mail: Johnson@fraser-ip.com

CAJ/tlh
Enclosures

c. Kiss My Face, LLC

KMF 295

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FRASER CLEMENS MARTIN MILLER

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Superscripts indicate bar admissions

May 6, 2014

Gary P. Topolosky, Esq.
4031 Brownsville Rd.
Pittsburgh, Pennsylvania 15227-3419

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Re: Kiss My Face, LLC
(Our ref. 55860-1)

Dear Mr. Topolosky:

Our office represents Kiss My Face, LLC in certain matters, including trademarks.

Kiss My Face recently discovered that your client, Ms. Kimberly Jaskolski, has filed U.S. Trademark Application Serial No. 86/222,393 seeking registration of the mark KISS MY BUDDHA on "lotions for improving grip in sports activities," based upon a *bona fide* intent to use the mark in commerce. We have sent this correspondence to you because you are identified as counsel of record in Ms. Jaskolski's trademark application.

The purpose of this letter is to advise Ms. Jaskolski of Kiss My Face's rights in a family of trademarks that include the words KISS MY FACE. Since at least 1978, Kiss My Face has used its family of KISS MY FACE marks in connection with personal care products, including lotion.

In addition, Kiss My Face owns the following U.S. federal trademark registrations for its marks:

1. U.S. Registration No. 4,229,593
KISS MY FACE

For: Personal care products, namely: all purpose soaps; alpha-hydroxy acid lotions; bar soaps; bath and shower gels; body lotions; body creams; body balms; body wash; cosmetics, including tinted lip gloss, lip tint, and tinted moisturizers; deodorants for personal use; exfoliating cleansers; facial cleansers; facial lotions, creams, and gels; facial masks; foaming soaps; foot creams and scrubs; shampoos; hair

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conditioners; hair detanglers; hair styling gels; hand lotions and creams; liquid soaps; moisturizing shower gel; mouthwash; non-medicated lip balms; shaving creams; skin toners; sun care products; and toothpaste and toothpaste gels in Class 3.

First Use: December 1, 1978
Status: Registered
Registered: October 23, 2012

2. U.S. Registration No. 2,301,324

KISS MY FACE

For: Non-medicated lip balms, cosmetics, namely, lipsticks, foundations, conditioners, bath and body gels, facial creams, hand lotions, deodorants, soaps, shaving creams, skin lotions, skin toners and facial and body lotions in Class 3.

First Use: June 1993
Status: Registered; Incontestable
Registered: December 21, 1999

3. U.S. Registration No. 1,513,297

KISS MY FACE

For: Personal care products, namely, shampoos, soaps, creme rinses, skin toners and skin lotions in Class 3.

First Use: December 1, 1978
Status: Registered; Incontestable
Registered: November 22, 1988

4. U.S. Registration No. 1,991,868

KISS MY FACE

For: Retail shops featuring clothing, and personal care products, namely shampoos, soaps, creme rinses, powders, skin toners and skin lotions in Class 42.

First Use: November 1, 1994
Status: Registered; Incontestable
Registered: August 6, 1996

5. U.S. Registration No. 4,268,625

KISS MY FACE PEACE and Design

For: All purpose soaps, bar soaps, bath and shower gels, body lotions, body washes, cosmetics, foaming soaps, hand lotions, body creams and body balms, liquid soaps, non-medicated lip balms, personal care products, namely, facial creams, foot creams, hand creams, deodorants for personal use, hair conditioners, hair detanglers, hair styling gels, mouthwashes, breath fresheners, shampoos, shaving creams, toothpastes, non-medicated sun care preparations and non-medicated sunscreen preparations in Class 3.

First Use: May 1, 2010

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Status: Registered
Registered: January 1, 2013

6. U.S. Registration No. 3,120,784

KISS MY FACE WHITENING

For: Personal care products, namely, toothpastes in Class 3.

First Use: November 5, 2001

Status: Registered

Registered: July 25, 2006

7. U.S. Registration No. 3,590,613

KISS MY FACE MOISTURE SOAP

For: Personal care products, namely, soaps in Class 3.

First Use: June 1986

Status: Registered

Registered: March 17, 2009

8. U.S. Registration No. 4,450,642

KISS MY FACE and Design

For: Personal care products, namely, all purpose soaps, moisturizing soaps, alpha-hydroxy acid face and body lotions, bar soaps, bath and shower gels, body lotions, body creams, body balms, body wash, cosmetics, tinted lip gloss, lip tint, tinted moisturizers, deodorants for personal use, exfoliating cleansers, facial cleansers, facial lotions, facial creams, facial gels, facial masks, foaming soaps, non-medicated foot creams, foot scrubs, shampoos, hair conditioners, hair detanglers, hair styling gels, hand lotions, hand creams, liquid soaps, moisturizing shower gel, mouthwash, non-medicated lip balms, shaving creams, moisturizing shaving creams, skin toners, non-medicated sun care preparations, sun tanning preparations, toothpaste, and toothpaste gels in Class 3.

First Use: September 1978

Status: Registered

Registered: December 17, 2013

9. U.S. Registration No. 4,450,641

KISS MY FACE and Design

For: Personal care products, namely, all purpose soaps, moisturizing soaps, alpha-hydroxy acid face and body lotions, bar soaps, bath and shower gels, body lotions, body creams, body balms, body wash, cosmetics, tinted lip gloss, lip tint, tinted moisturizers, deodorants for personal use, exfoliating cleansers, facial cleansers, facial lotions, facial creams, facial gels, facial masks, foaming soaps, non-medicated foot creams, foot scrubs, shampoos, hair conditioners, hair detanglers, hair styling gels, hand lotions, hand creams, liquid soaps, moisturizing shower gel, mouthwash, non-medicated lip

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First Use: September 1978
Status: Registered
Registered: December 17, 2013

10 U.S. Registration No. 4,200,053
KISS MY FACE SHIMMER
For: Non-medicated tinted lip balms in Class 3.
First Use: March 20, 2012
Status: Registered
Registered: August 28, 2012

Printouts from the U.S. Patent and Trademark Office database for these registrations are enclosed.

As indicated above, many of Kiss My Face's marks are the subject of incontestable registrations pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, and serve as conclusive evidence of Kiss My Face's ownership of the marks and of its exclusive rights to use the marks in commerce on the associated goods and services, subject to very limited exceptions.

Kiss My Face has expended considerable sums in its family of KISS MY FACE marks and has developed substantial good will in its marks by virtue of use. In order to protect the good will associated with its family of marks, it is incumbent upon our client to police their use and to prevent others from using the same marks or any marks that are confusingly similar.

It is in this light that we bring this matter to your attention. Ms. Jaskolski's proposed use and registration of the mark KISS MY BUDDHA infringes Kiss My Face's valuable trademark rights. It may also be actionable as a deceptive trade practice under various state laws.

As you know, under U.S. Federal Trademark Laws, when trademark infringement is established, the plaintiff is entitled to recover (1) the defendant's profits, (2) any damages sustained by plaintiff, and (3) the cost of the action. In assessing damages, the court may treble the damages and grant attorney fees to the prevailing party. These situations tend to occur when the infringement is willful.

We can appreciate that Ms. Jaskolski may not previously have known of our client's family of KISS MY FACE marks. Nonetheless, it is not in the interests of either Ms. Jaskolski or Kiss My Face to use highly similar marks on lotion products. Accordingly, we must request assurances that Ms. Jaskolski will not adopt the mark KISS MY BUDDHA and that she will abandon U.S. Trademark Application Serial No. 86/222,393.

In the unlikely event that the U.S. Patent and Trademark Office allows Ms. Jaskolski's application for registration, Kiss My Face will have no choice but to file a Notice of Opposition with the Trademark Trial and Appeal Board.

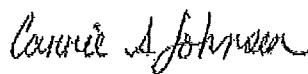
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Accordingly, we will await your prompt written assurances that Ms. Jaskolski will abandon U.S. Trademark Application Serial No. 86/222,393 and forgo plans to use the mark KISS MY BUDDHA, or any mark that is confusingly similar to the Kiss My Face family of trademarks, on related products.

Sincerely,

FRASER CLEMENS MARTIN & MILLER LLC



Carrie A. Johnson
Direct Number: (419) 365-2067
E-mail: Johnson@fraser-ip.com

CAJ/tlh
Enclosures

c, Kiss My Face, LLC

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Carrie Johnson

From: Joseph Di Salvo <jdisalvo@disalvo-group.com>
Sent: Wednesday, July 16, 2014 4:24 PM
To: Carrie Johnson
Cc: Teresa Holub
Subject: Re: Kiss My Face, LLC - Infringement KISSY FACE (55195)

No need to escalate. This will confirm that the phrase is no longer in use. I will call you upon my return to the office next week in the event you need further information.

Regards,
Joseph Di Salvo

Sent from The Di Salvo Group iPhone

On Jul 16, 2014, at 4:09 PM, Carrie Johnson <johnson@fraser-ip.com> wrote:

Dear Mr. DiSalvo,

Please respond to confirm whether KAS Direct has ceased use of the mark KISSY FACE on lip balm. As we are sure you appreciate, we need to get this one off of the books. **If we do not hear from you soon, we will need to escalate this matter.**

Best Regards,
Carrie A. Johnson
FRASER CLEMENS MARTIN & MILLER LLC
28366 Kensington Lane
Perrysburg, Ohio 43551
Phone (419) 874-1100
Direct (419) 365-2067
Fax (419) 874-1130
johnson@fraser-ip.com

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From: Carrie Johnson
Sent: Tuesday, February 18, 2014 10:41 AM
To: Joseph Di Salvo
Cc: Teresa Holub
Subject: RE: Kiss My Face, LLC - Infringement KISSY FACE (55195)

Dear Mr. DiSalvo,

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We do not have a record of your response to the email below. We would appreciate the courtesy of a response.

Thank you.

Best,
Carrie

Carrie Johnson
Direct (419) 365-2067

From: Carrie Johnson
Sent: Wednesday, January 08, 2014 10:48 AM
To: Joseph Di Salvo
Cc: Teresa Holub
Subject: RE: Kiss My Face, LLC - Infringement KISSY FACE (55195)

Dear Mr. DiSalvo,

Thank you for contacting us. A few months ago, you indicated that you would follow-up with us to provide information regarding when your client, KAS Direct, would cease use of the mark KISSY FACE on lip balm. Do you have an update?

We look forward to hearing from you.

Best Regards,
Carrie

Carrie A. Johnson
FRASER CLEMENS MARTIN & MILLER LLC
28366 Kensington Lane
Perrysburg, Ohio 43551
Phone (419) 874-1100
Direct (419) 365-2067
Fax (419) 874-1130
johnson@fraser-ip.com

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From: Joseph Di Salvo [<mailto:jdisalvo@disalvo-group.com>]
Sent: Tuesday, January 07, 2014 3:25 PM
To: Carrie Johnson
Subject: Kiss My Face, LLC

Dear Ms. Johnson,

I am writing further to you letter dated December 11, 2013 to Kevin Schwartz at KAS Direct, LLC. Below is all of my pertinent contact information. Please feel free to reach out to me directly to discuss this further.

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Best,

Joe

Joseph R. Di Salvo

The Di Salvo Group PLLC

jdisalvo@disalvo-group.com

917. 855. 6833

This email is from an attorney and may contain privileged attorney-client communication, attorney work product, or other confidential information. If you are not the intended recipient of this email, please contact The Di Salvo Group PLLC using the information provided above, and also delete and discard the email and any documents or files attached. Thank you.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Kiss My Face, LLC,)	
)	
Opposer,	)	Opposition No. _____
)	
v.	)	U.S. Application Serial No. 85/389,168
)	
Devoted Creations, Inc.	)	KISS MY COUTURE
)	
Applicant,)	
)	

Notice of Opposition

Opposer Kiss My Face, LLC ("Opposer") believes that it will be damaged by the registration of the mark KISS MY COUTURE for "Cosmetic sun-tanning preparations; Cosmetic tanning preparations; Indoor sun tanning preparations; Self-tanning preparations; Skin gels for accelerating, enhancing or extending tans; Sun tan gel; Sun tan lotion; Sun tan oil; Sun-tanning oils; Sun-tanning oils and lotions; Sun-tanning preparations; Suntan creams; Tanning and after-sun milks, gels and oils; Tanning creams; Tanning gels as shown in U.S. Application Serial No. 85/389,168 ("the Application.")

As grounds for opposition, it is alleged that:

1. Since at least as early as 1978 Opposer has used a family of marks comprising or containing the words KISS MY FACE, which are used in connection with personal care products, including sun care preparations.
2. Due to Opposer's long and continuous use of its family of KISS MY FACE marks in connection with its personal care products, Opposer's family of KISS MY FACE marks are widely recognized by the public as an indicator of the source of Opposer's goods.
3. Opposer owns the following federal trademark registrations issued by the U. S. Patent

and Trademark Office:

1. U.S. Application Serial No. 85/563,688
KISS MY FACE
For: Personal care products, namely: all purpose soaps; alpha-hydroxy acid lotions; bar soaps; bath and shower gels; body lotions; body creams; body balms; body wash; cosmetics, including tinted lip gloss, lip tint, and tinted moisturizers; deodorants for personal use; exfoliating cleansers; facial cleansers; facial lotions, creams, and gels; facial masks; foaming soaps; foot creams and scrubs; shampoos; hair conditioners; hair detanglers; hair styling gels; hand lotions and creams; liquid soaps; moisturizing shower gel; mouthwash; non-medicated lip balms; shaving creams; skin toners; sun care products; and toothpaste and toothpaste gels in Class 3.
First Use: December 1, 1978
Status: Pending
Filed: March 8, 2012
2. U.S. Registration No. 2,301,324
KISS MY FACE
For: Non-medicated lip balms, cosmetics, namely, lipsticks, foundations, conditioners, bath and body gels, facial creams, hand lotions, deodorants, soaps, shaving creams, skin lotions, skin toners and facial and body lotions in Class 3.
First Use: June 1993
Status: Registered; Incontestable
Registered: December 21, 1999
3. U.S. Registration No. 1,513,297
KISS MY FACE
For: Personal care products, namely, shampoos, soaps, creme rinses, skin toners and skin lotions in Class 3.
First Use: December 1, 1978
Status: Registered; Incontestable
Registered: November 22, 1988
4. U.S. Registration No. 1,991,868
KISS MY FACE
For: Retail shops featuring clothing, and personal care products, namely shampoos, soaps, creme rinses, powders, skin toners and skin lotions in Class 42.
First Use: November 1, 1994
Status: Registered; Incontestable
Registered: August 6, 1996

5. U.S. Registration No. 3,120,791
KISS MY FACE WOMEN'S
For: Personal care products, namely, toothpaste in Class 3.
First Use: January 18, 2005
Status: Registered; Incontestable
Registered: July 25, 2006
6. U.S. Registration No. 3,120,790
KISS MY FACE WAKE UP
For: Personal care products, namely, toothpaste in Class 3.
First Use: January 18, 2005
Status: Registered; Incontestable
Registered: July 25, 2006
7. U.S. Registration No. 3,120,784
KISS MY FACE WHITENING
For: Personal care products, namely, toothpastes in Class 3.
First Use: November 5, 2001
Status: Registered
Registered: July 25, 2006
8. U.S. Registration No. 3,120,755
KISS MY FACE TRIPLE ACTION
For: Toothpaste in Class 3.
First Use: November 5, 2001
Status: Registered; Incontestable
Registered: July 25, 2006
9. U.S. Registration No. 3,590,613
KISS MY FACE MOISTURE SOAP
For: Personal care products, namely, soaps in Class 3.
First Use: June 1986
Status: Registered
Registered: March 17, 2009

4. As indicated above, many of Opposer's KISS MY FACE marks are the subject of incontestable registrations pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, and serve as conclusive evidence of Opposer's ownership of the marks and of Opposer's exclusive rights to use the marks in commerce on or in connection with the goods identified in the registration under Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

5. On August 4, 2011, Devoted Creations, Inc. ("Applicant") filed U.S. Application Serial No. 85/389,168 for the mark KISS MY COUTURE for "Cosmetic sun-tanning preparations; Cosmetic tanning preparations; Indoor sun tanning preparations; Self-tanning preparations; Skin gels for accelerating, enhancing or extending tans; Sun tan gel; Sun tan lotion; Sun tan oil; Sun-tanning oils; Sun-tanning oils and lotions; Sun-tanning preparations; Suntan creams; Tanning and after-sun milks, gels and oils; Tanning creams; Tanning gels" in International Class 003, based upon a *bona fide* intent to use the mark in commerce.

6. On information and belief, since long prior to Applicant's first use of the mark KISS MY COUTURE, and as a result of widespread promotion by Opposer, Opposer's family of KISS MY FACE marks have acquired a high degree of recognition and distinctiveness as a symbol of the quality of goods offered by Opposer.

7. On information and belief, since long prior to Applicant's first use of the mark KISS MY COUTURE, and as a result of widespread promotion by Opposer, Opposer has developed common law rights to its family of KISS MY FACE marks, including its common law rights to the mark KISS MY FACE for sun care preparations.

8. Applicant's KISS MY COUTURE mark so resembles Opposer's family of KISS MY FACE marks as to be likely, when used with Applicant's goods, to cause confusion, to cause mistake, or to deceive the trade and public, who are likely to believe that Applicant's goods have their origin with Opposer and/or that such goods are authorized, licensed, endorsed, or sponsored by Opposer. Opposer would thereby be injured by the granting to Applicant of a certificate of registration for Applicant's KISS MY COUTURE mark.

WHEREFORE, Opposer believes that it will be damaged by the registration of Applicant's KISS MY COUTURE mark and requests that the opposition be sustained and that

said registration be denied.

The required fee of \$300 for instituting this proceeding is submitted electronically herewith.

Date: May 22, 2012.

Respectfully submitted,

/carrie a. johnson/

Carrie A. Johnson
Richard G. Martin
Fraser Clemens Martin & Miller LLC
28366 Kensington Lane
Perrysburg, Ohio 43551
419-874-1100 (Voice)
419-874-1130 (Fax)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Kiss My Face, LLC,)	
)	
Opposer,	)	Opposition No. _____
)	
v.	)	U.S. Application Serial No. 85/389,168
)	
Devoted Creations, Inc.)	
)	
Applicant.)	
)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on May 22, 2012, I caused a true and correct copy of the foregoing Notice of Opposition to be sent via First Class Mail, postage prepaid, to Applicant's Attorney/Correspondent of Record:

Jeffrey Sherman, Esq.
3874 Tampa Road
Oldsmar, FL 34677-3126

Date: May 22, 2012.

/carrie a. johnson/

Fraser Clemens Martin & Miller LLC
28366 Kensington Lane
Perrysburg, Ohio 43551
firm@fraser-ip.com (Email)
419-874-1100 (Voice)
419-874-1130 (Fax)

EXHIBIT 10 (REDACTED VERSION)

Opposer's Notice of Reliance

Top Products Report



Top of Form

Date presets: Date Range: select to select

Consider item options

Bottom of Form

Prod. ID	Name	Sold	Amount	Profit
----------	------	------	--------	--------

REDACTED

RM-GF

Girl Friends

REDACTED

REDACTED

RM-TMFS-W

Touch My Face Serum (W) *wholesale*

REDACTED

CONFIDENTIAL

RM-TMFS

Touch My Face Serum *retail*

REDACTED

REDACTED

RM-TMFM

Touch My Face Masque *to be discontinued*

REDACTED

CONFIDENTIAL



drfitt.com
6809 Thunder Rd.
Amarillo, TX 79119 US

Order Date: 3/6/2013
Order Number #: AB-1880
Sales Person: Jodi Bytheway

BILLING ADDRESS

Steve McDaniel
Southpark Pharmacy
5901 Bell
Ste C32
Amarillo, TX 79109 - United States
8063531447
442.newemail@drfitt.com

SHIPPING ADDRESS

Steve McDaniel
Southpark Pharmacy
5901 Bell
Ste C32
Amarillo, TX 79109 - United States

Shipping Method: Free Shipping

Total Items:

Shipped on: 03/07/2013

Payment Type: In-house terminal

Item Id	Descriptions and Options	Price	Qty	Total
---------	--------------------------	-------	-----	-------

REDACTED

RM-TMFS-W	Touch My Face Serum (W)	\$21.75		
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REDACTED

Tax:

Shipping:

Total

CONFIDENTIAL

PYR000003

7/25/2013 2:46 PM



drfitt.com
6809 Thunder Rd.
Amarillo, TX 79119 US

Order Date: 6/7/2013
Order Number #: AB-2187
Sales Person: Jodi Bytheway

BILLING ADDRESS

Sara Black
West Texas RX
3211 S. Coulter St
Amarillo, TX 79106 - United States
806-351-2945
wtrx@westtexasrx.com

SHIPPING ADDRESS

Sara Black
West Texas RX
3211 S. Coulter St
Amarillo, TX 79106 - United States

Shipping Method: Free Shipping

Total Items:

Payment Type: pay by check

Item Id	Descriptions and Options	Price	Qty	Total
RM-TMFS	Touch My Face Serum	\$21.75	REDACTED	

REDACTED

SubTotal:

Discount:

Tax:

Shipping:

Total

Checkout Questions

By "CHECKING" this box, You agree to Dr. Fitt's Terms and Conditions: Yes

CONFIDENTIAL



"You'll never medicate your way out of diseases you behave yourself into."

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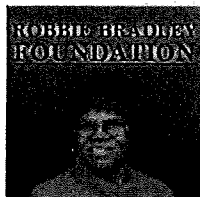
Manufacturer

Manufacturer

New Releases



**Taste and See
Cookbook**
\$30.00



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Touch My Face Serum

Item Number RM-TMFS



[Email a friend](#) [Review this item](#)

Price

Availability: In Stock

Your Price: \$43.45

[Share](#) |

Like

Be the first of your
friends to like this.

Quantity

1

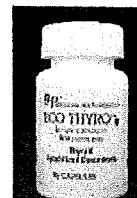
[Add to Cart](#)

Description

Touch My Face Serum is designed to address toximation®: the toxic inflammation from germ overgrowth that accelerates collagen breakdown. If your skin was an umbrella, think of collagen as the struts. When the struts collapse, the skin wrinkles. Combined with Liposomal Vitamin C, Touch My Face Serum stimulates the production of new struts. Suggested Use: Apply 1-2 pumps of serum face, neck and throat with upward, outward motion twice a day. For best results, use liposomal C with each use. Ingredients: Olive Squalane, Jojoba Oil, Evening Primrose Oil, Pumpkin Seed Oil, Essential Oils; Frankincense, Lavender, Lemongrass, Rosemary and Geranium; Natural Tocopherols (Vitamin E) and Natural Retinyl Palmitate

Top Sellers

1



Eco Thyro

\$30.20

[more details](#)

2. [OMG BVF \(Bacteria, Virus, Fungus\)](#)
\$22.00

3. [OMG Nasal Spray](#)
\$50.00

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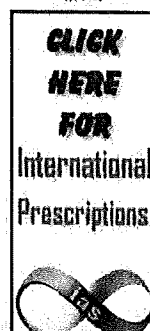
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southparkpharmacy.com



3dcart Store Manager



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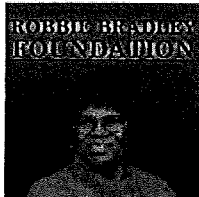
Manufacturer

Manufacturer

New Releases



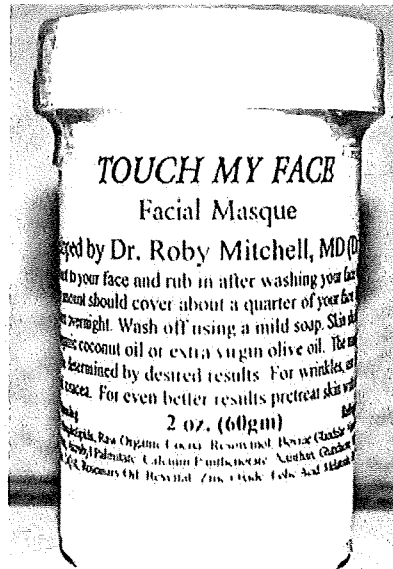
**Taste and See
Cookbook**
\$30.00



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Touch My Face Masque

Item Number RM-TMFM



[Email a friend](#) [Review this item](#)

Price

Availability: In Stock

Your Price: \$40.00

[Share](#)

Like

Be the first of your friends to like this.

Quantity

1

[Add to Cart](#)

Description

Touch My Face Masque

Can be used for acne, rosacea, wrinkles, and more. Touch my Face Masque is a Natural product developed by Dr. Roby Mitchell. It contains all natural ingredients, 2 oz. size

Touch My Face Masque is the grown-up Touch My Face cream. The masque stays true to the objective of the cream, which is to make your skin appear healthier by making the cells healthier. This is much better than the cosmetic approach of trying to cover up the manifestations of diseased skin.

Top Sellers

1



Eco Thyro
\$30.20
[more details](#)

2. **OMG BVF (Bacteria, Virus, Fungus)**
\$22.00
3. **OMG Nasal Spray**
\$50.00

Mailing List

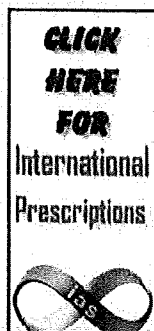
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